

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>23712-05099</b>									
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____	Application Number  <b>09/788,311</b>	Filed  <b>February 15, 2001</b>									
	First Named Inventor <b>Lawrence Hartsook</b>										
	Art Unit  <b>2163</b>	Examiner  <b>Patrick A. Darno</b>									
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding: 5px;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top; padding: 5px;"><u>/Rajendra B Panwar/</u> Signature</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top; padding: 5px;"><u>Rajendra B Panwar, Reg. No. 63,165</u> Typed or printed name</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>63,165</u></td><td style="vertical-align: top; padding: 5px;"><u>650.335.7107</u> Telephone number</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="vertical-align: top; padding: 5px;"><u>August 3, 2009</u> Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	<u>/Rajendra B Panwar/</u> Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Rajendra B Panwar, Reg. No. 63,165</u> Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>63,165</u>	<u>650.335.7107</u> Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>August 3, 2009</u> Date
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<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.											

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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## ATTACHMENT TO THE PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pre-appeal review is requested because the rejections in the April 02, 2009, Final Office Action are improper and without factual or legal basis. Applicants respectfully request that the Panel indicate that claims 1-9, 11, 12, 14, 17, 19-22, 24-27, and 29-33 are allowable.

### **I. Status of the Claims**

Claims 1-9, 11, 12, 14, 17, 19-22, 24-27, and 29-33 are pending and stand rejected under 35 U.S.C 102(e) as being anticipated by U.S. Patent Pub. 2007/0016909 issued to Gautier.

### **II. Claims 1-9, 11-12, and 17-30 not anticipated by Gautier**

Independent claim 1 recites:

A computer implemented method for dynamically rendering data in a markup language, the method comprising:  
identifying a symbol in the data in the markup language, the symbol indicating a query of a data set, **the query containing one or more variables, each variable of one of a plurality of data types;**  
augmenting the markup language to support the variables by building a variable resolution functionality into the markup language, **each variable resolving to two or more variable values;**  
accessing the data set in order to generate a resolution to the query, wherein the one or more variables contained in the query are resolved as part of the generation of the resolution to the query, the query associated with a tag in the markup language;  
**substituting the two or more variable values for each variable into the query to generate two or more completed queries;** and  
dynamically rendering the resolution to the two or more completed queries as a part of the markup language, according to at least one rule associated with the markup language wherein said symbol can be used to dynamically render multiple data sets.

Hence, claim 1 recites a method for dynamically rendering data in a markup language comprising, identifying a symbol representing a query containing one or more variables. The markup language is augmented with variable resolution functionality and resolves each variable to two or more values. Data set is accessed to generate resolution to the query and the two or more variable values are substituted for each variable to generate two or more completed queries.

The completed queries are rendered as part of the markup language. Gautier does not disclose several limitations of claim 1 as described below.

**Gautier does not disclose “query containing one or more variables”:**

As described above the query of the data set contains one or more variables. A “variable” as supported by the specification and as understood in the art (for example, [http://en.wikipedia.org/wiki/Variable\\_\(programming\)](http://en.wikipedia.org/wiki/Variable_(programming))) is an identifier (recognizable using a specific syntax) that is linked to a value stored in the system's memory or to an expression that can be evaluated. The specification describes syntax for defining variables, using variables in the queries defined using the markup language and mechanism for resolving variables into values. Gautier does not disclose a “query containing one or more variables.” Examiner mentions that paragraph [0030] lines 14-22 and Fig. 3a disclose an embodiment of a query containing variables. The paragraph [0030] lines 14-22 mention “In a preferred embodiment, the content within the OPT tags is **variable data** selected from the database 100 in response to a query; the server filters the query response using the OPT mechanism described herein.” This portion merely describes that data can vary, e.g. data that is the result of a query can vary. The word “variable” as mentioned in the cited portion is used as an adjective to qualify the noun “data” and is distinct from the term “variable” as used in the claim. Furthermore, as disclosed in the cited portion, the “variable data” is the data returned in “response to a query” and is not a “variable” contained **in the query** as claimed. A “variable contained in a query” as described on page 15 of the specification and illustrated by 401 in FIG. 4 is a token that is part of the request corresponding to the query, whereas “variable data” as described in the cited portion is value returned as a result of executing the query. Hence the cited portion does not disclose “query containing one or more variables.” The cited portion is the only reference to the word “variable”

in the reference, and hence the reference does not disclose the limitation “query containing one or more variables.”

Examiner mentions (page 9 of the Final Office Action) “Gautier clearly discloses wherein the query includes variables for at least retrieving turning instructions (Turn Left, L), distance information (.2 miles or .2 m), and time information (.9 minutes or .9 m).” The Examiner has inferred the above information based on FIG. 3 (a, b, c) that only shows an example of an XML document being compiled to two different documents based on optimization constraints. There is no disclosure or suggestion in the reference anywhere that teaches “the query includes variables for at least ...and time information (.9 minutes or .9 m)” as alleged by the Examiner. In fact, paragraphs [0033-0042] describe how the optimization constraint is determined by the server and processed based on a set of rules that determine content to be included in compiled output. The mechanism disclosed in Gautier does not mention queries containing variable and hence is distinct from the claimed limitations.

**Gautier does not disclose “each variable resolving to two or more variable values”**

The limitation “each variable resolving to two or more variable values” recites that each variable resolves to **at least two values** in the resulting output. The ability to resolve a variable into multiple values is described in the specification pages 11-12. For example, as described on page 12, a variable can be resolved into multiple descriptions, one for each product in a set of products allowing the multiple values to be rendered as rows of a table.

Examiner mentions (on page 11 of Final Office Action) that “the distance information variable of Gautier resolves to two or more variables, either .2 miles or 0.2m.” As discussed above, there is no variable disclosed by Gautier corresponding to the distance information. However, even if it is assumed that there is a variable disclosed by Gautier that corresponds to

the distance information, the above sentence is self-inconsistent since the phrase “either .2 miles or 0.2m” clearly implies that the variable resolves to only **one** of the two possible values and not “two or more values.” Fig. 3 of Gautier clearly shows that the document of Fig. 3a is compiled into **either** the document shown in Fig. 3b **or** the document shown in Fig. 3c. FIG. 3b is the output for “High Performance Device” and FIG. 3c is the output for “Low Performance Device.” The document of Fig. 3b uses the value “0.2 miles” and the document of FIG. 3c uses “0.2 m,” but there is no compiled document that uses **both** the values. Furthermore, paragraph 0032 describes the step 204 of FIG. 2 as “The server 102 compiles at 204 ... by selecting **one of the alternate items** of content, based on the optimization constraint.” Hence Gautier does not disclose the limitation “each variable resolving to two or more variable values.”

Since, Gautier only selects one alternate content item in the output, Gautier also does not disclose the limitation “substituting the two or more variable values for each variable into the query to generate two or more completed queries; and dynamically rendering the resolution to the two or more completed queries as a part of the markup language.” Fig. 3 clearly illustrates that the output of the query in Gautier includes only one value from a set of values.

## **II. Gautier does not Anticipate Claim 31-33**

Examiner cites paragraph [0012], [0018], [0032], [0033], and [0046] as disclosing the limitations of claim 31. Claim 31 recites:

The method of claim 1, wherein each completed query comprises a node and the at least one rule is associated with a tag describing **cells of a rendered table and directs rendering of each node belonging to each completed query as a cell of the rendered table.**

The claim 31 recites limitations including “rule associated with a tag describing cells of a rendered table,” and “rendering of each node belonging to each completed query as a cell of the rendered table.” None of the cited paragraphs disclose the limitations of claim 31. Paragraph

[0012] describes rules mapping optimization constraints to items of the content. Paragraph [0018] describes representation of optimization constraints as numeric values. Paragraph [0032] describes associating an optimization constraint with a client device and selecting one of the items of content based on the optimization constraint. Paragraph [0033] discloses a set of rules. And paragraph [0046] describes how a content item is compiled. Hence, none of the cited portions disclose the limitations of claim 31. In fact, the entire reference does not even mention the words used in the limitations of claim 31, for example, “cell,” “node,” or “render” and the only references to the word “table” are in relation to the TABLE I and TABLE II in paragraphs [0043] and [0044] respectively, not in the context of a “rendered table” based on markup language. Examiner has not provided any explanation as to how the cited portions disclose the limitations of claim 31. Hence, Gautier does not disclose the limitations of claim 31.

#### **IV. Summary**

Based on the foregoing, Applicants respectfully submit that the pending rejections suffer from multiple clear deficiencies. Accordingly, Applicants request that the rejections of claims 1-9, 11, 12, 14, 17, 19-22, 24-27, and 29-33 be withdrawn.

Respectfully submitted,  
Lawrence Hartsook *et al.*

Dated: July 30, 2009

By: / Rajendra B. Panwar /  
Rajendra B. Panwar, Reg. No. 63,165  
FENWICK & WEST LLP  
801 California Street  
Mountain View, CA 94041  
Phone: (650) 335-7107  
Fax: (650) 938-5200